

FREDERICK COUNTY PLANNING COMMISSION

April 12, 2017

TITLE: **Theofield Property, Lots 1-5 and Remainder**

FILE NUMBER: **M-3149, AP 16978 (APFO N/A, FRO 17029)**

REQUEST: **Agricultural Cluster Concept Plan Approval**
The Applicant is requesting Concept Plan approval for a 5-lot Agricultural Cluster subdivision on a 95.58-acre property.

PROJECT INFORMATION:

ADDRESS/LOCATION: Located on the south side of Renner Road, 980 feet west of Hill Road
TAX MAP/PARCEL: Map 42, Parcel 190
COMP. PLAN: Agricultural/Rural
ZONING: Agricultural
PLANNING REGION: Walkersville
WATER/SEWER: No Planned Service

APPLICANT/REPRESENTATIVES:

APPLICANT: Frey Agricultural Products, Inc.
OWNER: Frey Agricultural Products, Inc.
SURVEYOR/ENGINEER: Vanmar & Assoc.
ARCHITECT: N/A
ATTORNEY: Noel Manalo, Miles and Stockbridge P.C.

STAFF: Mike Wilkins, Principal Planner II

RECOMMENDATION: Conditional Approval

ATTACHMENTS:

EXHIBIT 1- Concept Plan

STAFF REPORT

ISSUE

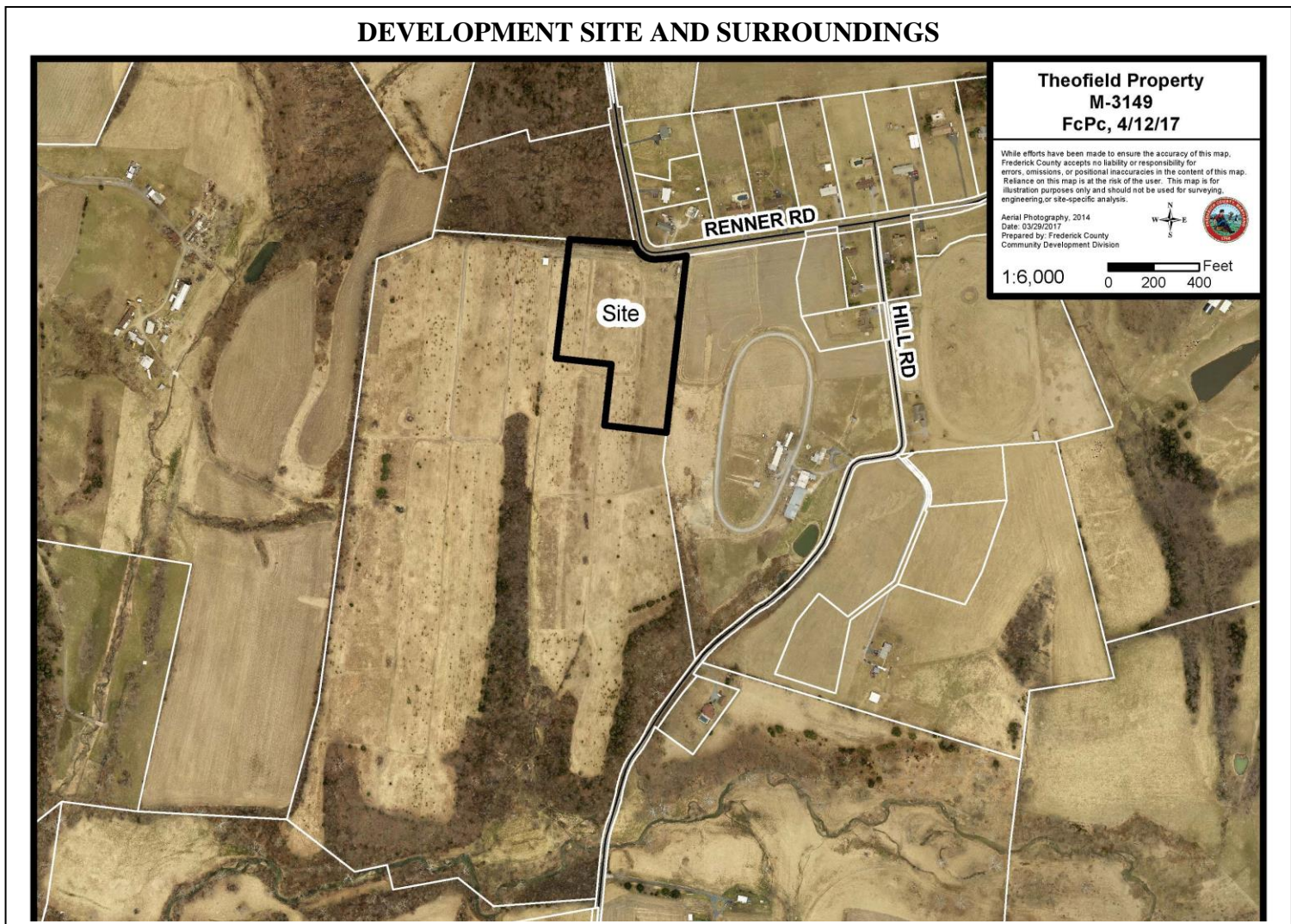
The Applicant is requesting Concept Plan approval for a 5-lot Agricultural Cluster subdivision on a 95.58-acre property.

BACKGROUND

This parcel is an original agriculture tract as defined in 1-19-7.300(B) of the Zoning Ordinance, it being described in the land records as of August 18, 1976.

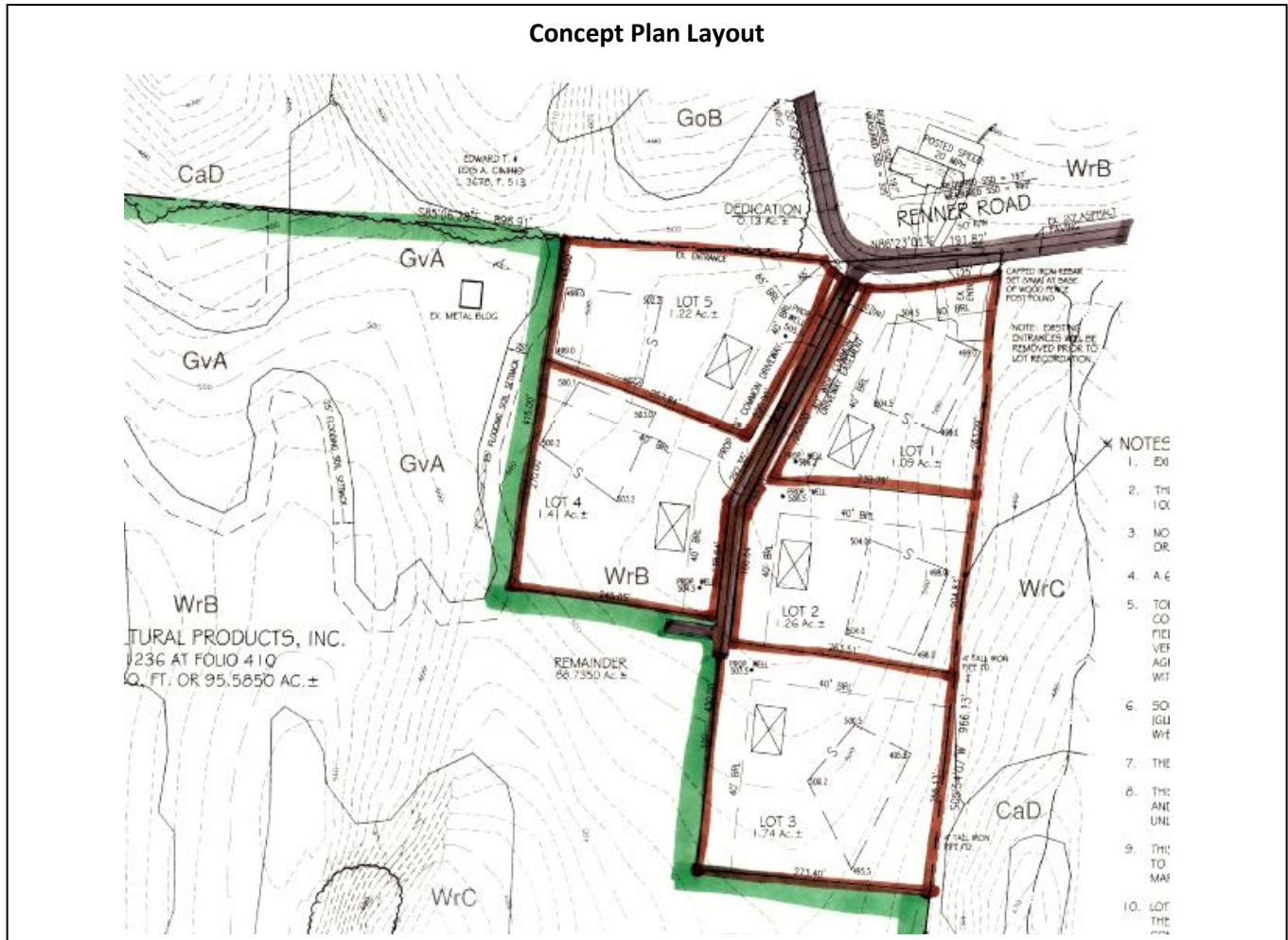
This parcel has not been the subject of any previous subdivision applications. In January 2017 a Forest Banking Plan was approved on the property, which will place 46.84 acres of the property under a Forest Conservation Easement. Although the plan is approved, the easements have not yet been recorded. The area of the proposed subdivision is not included in the area of the proposed Forest Conservation Easement.

Proposed lots 1-5 will create the 1st through 5th lots off the parcel since 1965 and is therefore a minor subdivision.



Existing Site Characteristics

The property consists of a single parcel containing 95.58 acres. Approximately 21 acres of the site is forested. The remaining 74.50 acres +/- consists of agricultural fields. Israel Creek, a tributary to the Monocacy River, runs along the southern property line. Flooding soils and wetlands are located along either side of the creek. A small pocket of flooding soils are mapped on the west side of the proposed lots.



ANALYSIS

A. Zoning Ordinance Requirements: § 1-19-7.300. AGRICULTURAL DISTRICT.

§1-19-7.300(B): The minimum lot size for single-family dwellings will be 40,000 square feet...

§1-19-7.300(C)(2)(c): Clustering Requirements. Minimum lot size, width and yard areas shall be as specified in the Agricultural District. Lot size shall average not more than 1.5 acres in size with no lots exceeding 2 acres. The Planning Commission shall have the authority to grant modifications to lot sizes based on percolation and other Health Department requirements.

All of the proposed lots meet the minimum 40,000 sq. ft. lot size requirement. The proposed minimum lot width (100 feet) and yard areas (40 foot front yard, 30 foot rear yard, and 10 foot side yard) meet Agricultural District requirements in accordance with §1-19-6.100 Design Requirements of the Zoning Ordinance. The lots range in size between 1.09 acres and 1.74 acres. The 1.35 acre average lot size meets the lot size criteria under §1-19-7.300(C)(2)(c) of the Zoning Ordinance.

§1-19-7.300(C)(2)(d): *A minor subdivision of 3 lots will be permitted to be subdivided on an original tract of land 25 acres or less...On an original tract of land containing more than 25 acres, the Planning Commission may allow 1 lot in addition to those allowed on lesser tracts for each additional 50 acres or part thereof above the first 25 acres...*

This parcel consists of 95.58 acres. Under the cluster provisions, up to 5 lots can be proposed to be subdivided off the property (3 base + 2 bonus lots= 5). All of the parcel's subdivision potential will be utilized under this application and no further subdivision will be permitted.

§1-19-7.300(C)(1): Clustering: Purpose and intent.

(a) *To encourage the conservation of farmland in the Agricultural Zoning District by planning the residential development allowed in the zone to provide for the best obtainable siting, access and location of lots on a tract.*

(b) *To provide for a well-planned development while minimizing the use of prime agricultural land.*

§1-19-7.300(C)(3): Procedures:

(b) *The Planning Commission will have final approval over the location and layout of the proposed clustering of lots. The Planning Commission shall consider the following when reviewing Concept Plans.*

1. *Soils. The cluster plan should minimize the use of the higher quality soils (class I, II and III as designated in the soils classification study) and maximize the use of steeper sloped areas, areas of poorer soils and areas which are otherwise less productive for agricultural uses.*

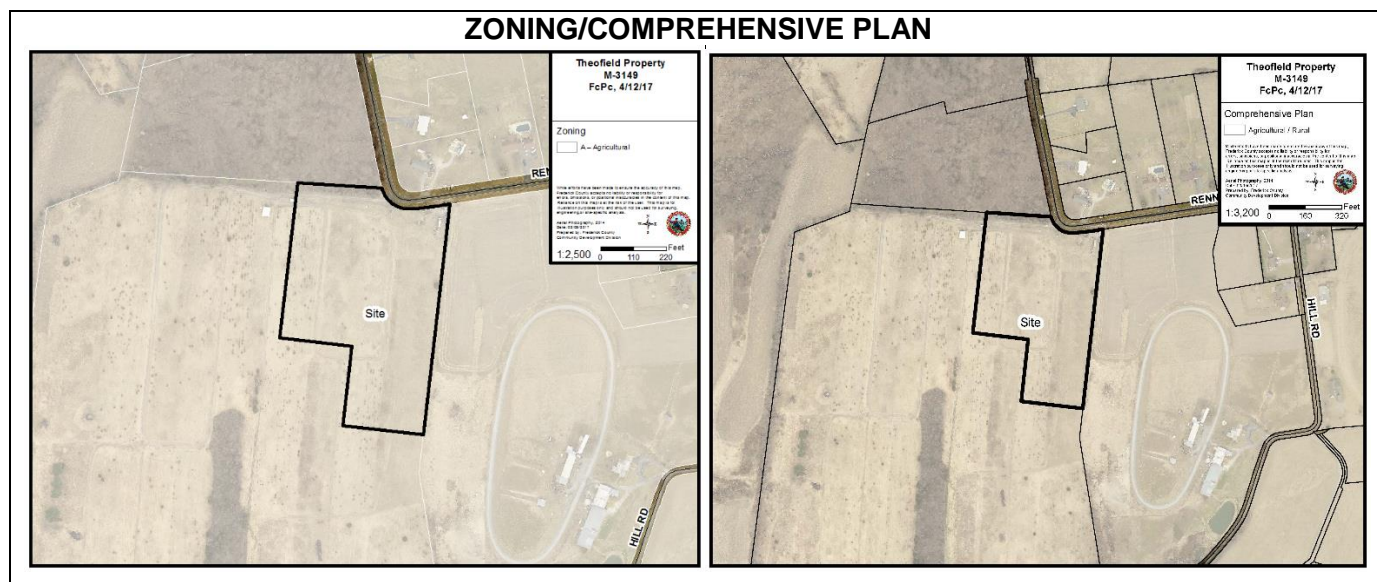
2. *Surrounding land use and zoning. The cluster plan shall consider the existing land uses and zoning in the vicinity. Generally, new lots which are adjacent to existing development or residential zoning are preferred to creating an isolated cluster of new houses.*



The proposed 5-lot subdivision is situated in the northeast corner of the property. The parcel consists of class II and III soils, which are high quality agricultural soils. The site of the proposed subdivision consists of class II soils. The class III soils (WrC) are located well within the interior of the property and include most of the steeper slope areas. Situating the lots within the Class II soils close to Renner Road is preferable to developing the lots deep within the interior of the property and on steep slopes. The remainder area contains a large area of class II soil, so the subdivision will not leave the remainder with undesirable soils, although the approved but unrecorded FRO banking easement will cover roughly half of the remaining farm area.

The only nearby residential development is across Renner Road from the subject parcel. These adjacent small-lot residential properties are zoned Agriculture. The proposed lots are as close as physically possible to existing residential development.

Zoning Ordinance Requirements Findings/Conclusions: The proposed subdivision will meet all Zoning Ordinance requirements if the FcPc determines that the design meets the Ag Cluster provisions.



B. SUBDIVISION REGULATION REQUIREMENTS

- 1. Land Requirements §1-16-217 (A):*** The land use pattern of the Comprehensive Plan and the district regulations of the zoning ordinance shall form the basic theme of the design pattern of the proposed subdivision.

The subject property has an Agricultural/Rural Comprehensive Plan land use designation (see map above). The proposed land use and subdivision design complies with the Comprehensive Plan and will meet Zoning Ordinance requirements if the FcPc determines that the design meets the Ag Cluster provisions.

- 2. Land Requirements §1-16-217 (B):*** The subdivision design shall take advantage of the uniqueness of the site reflected by topography, soils, the wooded areas, water bodies and the relationship to adjoining subdivisions and land uses, both proposed and existing.

The site design takes advantage of the site topography, wooded areas, water bodies, and adjoining subdivisions, and land uses. The overall parcel contains an existing stream, flooding and wet soils, as well as wetlands. The area of the proposed subdivision does not contain unique topography, forest, or water bodies. Lots 4 and 5 are within 100 feet of the GvA wet soils boundary, which will require a geotechnical

report at the time of building permit application if houses with basements are proposed. The proposed subdivision is located near residential lots and is situated so as to avoid the existing environmental features and their buffers.

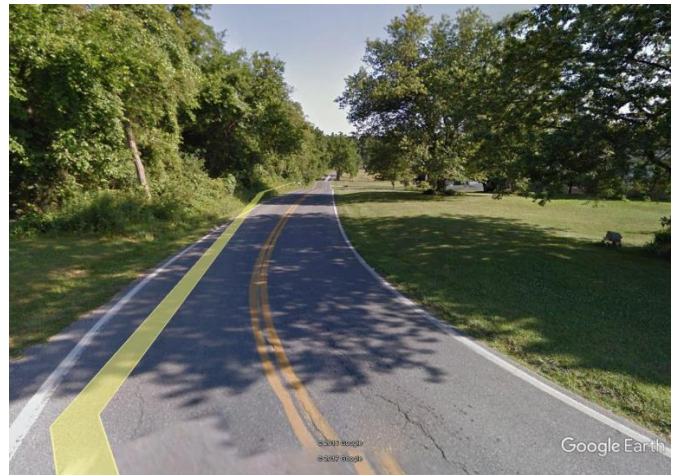
- 3. Preliminary Plan, Required Information §1-16-72 (B)(19)(a & b):** Soil types: (a) Soils type(s) information shall be provided and appropriate boundaries shown on the plan. In the event that "wet soils" are located on or within 100 feet of a proposed residential subdivision, a soils delineation report shall be prepared by a licensed soil scientist or professional engineer registered in the State of Maryland. The soils delineation report shall be submitted for review prior to Planning Commission approval of the plan. The Division may waive this requirement if the "wet soils" are located within open space areas.

Wet soils (GvA) are located within 100 feet of lots 4 and 5. A geotechnical report will be required at the time of building permit application if houses with basements are proposed.

Road Access Requirements. Public Facilities §1-16-12 (B)(3)(a): For minor subdivisions; A 16-foot travelway width shall be the normal minimum standard..."

The proposed lots will access Renner Road, which is designated a local roadway on the Comprehensive Plan and has a 20 foot wide travelway. Although the existing travelway meets the criteria for a minor subdivision, the minimum right of way width of a local roadway is 50'. Therefore right-of-way dedication is required along the frontage of the proposed lots.

Lot access to Renner Road will be via a common driveway. Notes will be required on the final plat indicating that the lot owners shall be responsible for maintaining the common driveway. The common driveway must be constructed prior to lot recordation in accordance with §1-16-109(D)(8). Sight distance for the proposed driveway location exceeds the minimum requirements. The two existing farm entrances will be closed.



(Left: Renner Rd looking east from common drive. Right: Renner Rd looking north from common drive.)

- 4. Lot Size and Shape. Panhandle Lots §1-16-219 (C)(2):** Panhandle lots may be approved by modification of the Planning Commission in major subdivisions only when it is determined by the Commission that "excellence of design" will be achieved or that such lots are inaccessible to the road due to odd shape and/or topographical constraints. In each case, the Planning Commission will determine "excellence of design" based on the spatial relationship of the panhandle lot to other lots and the public road. Only physical design criteria such as odd shape and road inaccessibility, topography, existing utilities, proposed and existing well and septic constraints (Health Department

criteria) and natural or man-made features shall be used by the Planning Commission in granting modifications for panhandle lots in major subdivisions.

Lots 2-4 are designed as panhandle lots. A 4^h panhandle is provided to the Remainder so that it may utilize the common driveway and maintain fee-simple road frontage to Renner Road. Since this is a minor subdivision, a modification for the panhandle designed is not required by the code.

- 5. Water and Sewer Facilities. Public Facilities §1-16-12 (C):** *The proposed subdivision shall be disapproved unless each building lot has been approved for individual and/or community sewerage and water facilities by the Health Department.*

The property has a water and sewer classification of No Planned Service and must utilize private wells and septic systems. The percolation tests will be performed after the approval of this concept plan. Wells must be drilled prior to lot recordation.

Subdivision Regulation Requirements Findings/Conclusions: The project will meet all Subdivision Regulation requirements once all agency comments and conditions are met.

C. OTHER APPLICABLE REGULATIONS

- 1. Stormwater Management – Chapter 1-15.2:** Stormwater management will be provided in accordance with the Maryland SWM Act of 2007. Stormwater management will be addressed with future plan submittals.
- 2. APFO – Chapter 1-20:** This subdivision is a minor subdivision and is not subject to APFO requirements.
- 3. Forest Resource Ordinance – Chapter 1-21:** The subdivision is subject to FRO. A Combined Preliminary/Final Forest Conservation Plan has been submitted and is currently under review. The area of the proposed lots does not contain forest. The Applicant proposes to meet the afforestation requirement (20% of the subdivision area) by planting a 1.34 acre area on the remainder adjacent to one of the previously approved Forest Banking areas. The new planting area will be placed under a perpetual easement.

Summary of Agency Comments

<i>Other Agency or Ordinance Requirements</i>	<i>Comment</i>
<i>Development Review Engineering (DRE):</i>	Conditional Approved. Stormwater management, road frontage improvements, common drive construction, etc. to be addressed with future plans.
<i>Development Review Planning:</i>	Hold. Must meet all agency and FcPc comments and conditions.
<i>State Highway Administration (SHA):</i>	N/A
<i>Div. of Utilities and Solid Waste Mngt. (DUSWM):</i>	N/A
<i>Health Dept.</i>	Conditionally Approved. No objection to the Agricultural cluster plan. A complete review will be provided on the preliminary plan.
<i>Office of Life Safety</i>	N/A
<i>DPDR Traffic Engineering</i>	Approved.
<i>Historic Preservation</i>	N/A

RECOMMENDATION

If the Planning Commission finds that the proposed subdivision meets the Ag Cluster provisions of the Zoning Ordinance, then Staff has no objection to the conditional approval of the Concept Plan.

Based upon the findings and conclusions as presented in the staff report the application meets or will meet all applicable Subdivision, Zoning, APFO, and FRO requirements if the FcPc finds that the development meets the requirements of the Ag Cluster provisions. Should the FcPc grant approval of this application (M-3149, AP 17029), Staff recommends that the following items be added as conditions to the approval:

1. The Applicant shall comply with all Staff and agency comments through the completion of the plan.
2. Concept Plan approval shall become null and void at the end of one (1) year from the date of FcPc approval unless a preliminary plan or Combined Preliminary/Final Plat is submitted for approval within this one year approval period.
3. There is currently an application for Agricultural (Ag) Preservation under review for this property. Entering the Ag Preservation program will nullify and void this Ag Cluster application. Executing this Ag Cluster plan (submitting final plat(s)) will nullify and void any Ag Preservation application on this property.

PLANNING COMMISSION ACTION

MOTION TO APPROVE

I move that the Planning Commission **APPROVE M-3149 (AP 16978) with conditions** as listed in the staff report for the proposed Theofield Property, Lots 1-5 and Remainder Agricultural Cluster concept plan, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.